

JOHN HEARD, ASSIGNEE OF AMASA DAVIS.

DECEMBER 23, 1831.

Mr. VERPLANCK, from the Committee of Ways and Means, to which was referred the case of John Heard, surviving assignee of Amasa Davis, made the following

REPORT:

*The Committee of Ways and Means, to whom was referred the petition of John Heard, jr. make the following report:*

The petitioner being the surviving assignee of the late Amasa Davis, of Boston, a bankrupt, claims, as his legal representative, the repayment of one thousand dollars paid into the Treasury of the United States, in consequence of a mistake, as a moiety of a penalty for the violation of certain laws prohibiting the slave trade, recovered against the said Davis. The circumstances of the case are these:

In the year 1803, several *qui tam* actions were instituted against different individuals, in the United States' District Court for Massachusetts, by Samuel Adams, for the recovery of specific penalties of two thousand dollars, for alleged violations of the then existing laws prohibiting the slave trade. Among these cases, all depending upon the same principle, was one against Woods, and another against the aforesaid Davis. The defendants offered several pleas, one of which was the statute of limitations. These were not sustained by the court, and verdicts were returned in the several cases for the penalties of two thousand dollars each in the general issue. At the next circuit court an appeal was entered in these cases; and the counsel, in the case of Adams *vs.* Woods, having determined to remove the case by writ of error, for a final decision in the Supreme Court of the United States, for the sake of avoiding the expense of carrying up all the cases depending on the principle of the applicability of the statute of limitation to the penal laws against the slave trade, it was agreed by the counsel that the case of Davis should abide the decision of the Supreme Court on that of Adams *vs.* Woods. This agreement, dated "Circuit Court of the United States, October term, 1803," was signed by George Blake, then District Attorney of the United States, and stipulated that "the verdict rendered against Davis should be conclusive as to all matters of fact; and that the decision on the plea of the statute of limitations in bar, should depend on the decision of a similar plea in the case of Adams *vs.* Woods; and if said plea should be decided to be good, then the money which has been paid to the Marshal, viz: the sum of two thousand dollars, shall be returned to the appellant; but

if the decision shall be against the said plea, there shall be no further proceedings in this case," &c.

About this time, by some mistake, ("probably," says the District Attorney in his certificate, "by mistake on the part of the late District Clerk,") an execution, on the verdict and judgment below, was issued, in July, 1803, against Davis, for the amount of the penalty, which was paid by him to the Marshal, who paid the moiety thereof, in 1804, into the United States' Treasury.

Soon after these transactions, in December, 1803, a commission of bankruptcy was issued against Davis, and assignees of his estate were duly appointed, of whom the present petitioner is the sole survivor. Davis left the country, and some time after died.

In February, 1805, the Supreme Court of the United States decided, that the statute of limitation was a good plea in bar, under the penal laws against the slave trade, in the case of *Adams vs. Woods* (2 Cranch 336.) Consequently the estate of the defendant Davis became, under the agreement, entitled to the repayment of the amount of the penalty.

The present petitioner alleges, that the assignees received no books or papers from the bankrupt, and were wholly ignorant of this suit; that the agreement has been recently found on the files of the Circuit Court, and acknowledged by George Blake, the former District Attorney, who has also given a certificate of the facts of the case. The money was evidently never repaid according to the agreement.

All these facts are supported by Mr. Blake's certificate, by the agreement, duly attested by the present Clerk of the District Court, and his certificate of other matters; and by a letter from the Secretary of the Treasury, in relation to the payment of a moiety of the recovered penalty into the Treasury.

The bankruptcy, subsequent absence, and death of the original party, appear to the committee to afford sufficient reason to account for the long delay in claiming the benefit of the agreement, and to rebut any presumption which might arise against the claim were it made by the original party.

They, therefore, report a bill for the repayment of the moiety of the penalty.

The claim for interest on this amount is not supported by any circumstances, sufficient to take the case out of the general principles against the allowance of interest which have been held by this House.